

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HAIRU MA, :
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Plaintiff, :
:
: 22-CV-10784 (JMF)
-v- :
:
: ORDER
THE INDIVIDUALS, CORPORATIONS, LIMITED :
LIABILITY COMPANIES, PARTNERSHIPS, AND :
UNINCORPORATED ASSOCIATIONS IDENTIFIED :
ON SCHEDULE A HERETO, :
:
Defendants. :
:
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JESSE M. FURMAN, United States District Judge:

On April 28, 2023, Plaintiff filed a letter indicating that it intends to move for default judgment. *See* ECF No. 71. By Order entered May 2, 2023, the Court set a briefing schedule for the anticipated motion. *See* ECF No. 73. The Court's Order stated:

In any motion, Plaintiff shall address whether the Court has jurisdiction to enter default judgment against Defendants, to the extent that their addresses are known, given that they were served only electronically pursuant to Article 15 of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the "Hague Convention"). *See* Memorandum Opinion and Order, *Moonbug Ent. Ltd. v. 012 Stickers Store*, No. 22-CV-2394 (JMF), ECF No. 46 (S.D.N.Y. Dec. 16, 2022) (holding that the plaintiff must serve defendants in China through the normal processes of the Hague Convention for the Court to be able to enter default judgment, as prior electronic service under Article 15 did not suffice). In the alternative, Plaintiff can move by the same date for (1) a stay of this case pending the appeal in *Smart Study Co. v. Acuteye-U.S.*, No. 21-CV-5860 (GHW) (S.D.N.Y. appeal filed Aug. 18, 2022); or (2) additional time to effectuate service through the normal processes of the Hague Convention.

Id. at 1-2 (footnote and emphasis omitted).¹

¹ On May 3, 2023, the Court of Appeals dismissed the appeal in *Smart Study* for lack of appellate jurisdiction. *See Smart Study Co. v. HAPPY PARTY-001*, No. 22-1810, 2023 WL

On May 16, 2023, Plaintiff filed its motion for default judgment, *see* ECF Nos. 76-77, but failed to comply with the foregoing paragraph of the Court's May 2, 2023 Order. In fact, Plaintiff's motion and supporting declaration make no mention of the Hague Convention at all. Accordingly, Plaintiff's motion is DENIED without prejudice to renewal after Plaintiff has served Defendants through the Hague Convention. Plaintiff shall provide a status update on such service no later than **November 17, 2023**.

Plaintiff shall serve a copy of this Order on Defendants, in accordance with the means of service authorized by the Preliminary Injunction Order, *see* ECF No. 56, ¶ 6, within **two business days** and file proof of such service within **three business days**.

The Clerk of Court is directed to terminate ECF No. 76.

SO ORDERED.

Dated: May 17, 2023
New York, New York



JESSE M. FURMAN
United States District Judge

3220461 (2d Cir. May 3, 2023).